

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ORGAIN INC,

Plaintiff,

v.

NORTHERN INNOVATIONS HOLDING  
CORP., *et al.*,

Defendants.

Case No. C21-810-RSM

ORDER TO SHOW CAUSE

This matter comes before the Court on Defendant Iovate Health Sciences U.S.A. Inc. (“Iovate”)’s Amended Motion for Order to Show Cause and Motion to Compel Amazon.com Inc’s Compliance with Subpoena (Dkt. #6) (sealed) and non-party Amazon.com, Inc. (“Amazon”)’s Motion for Protective Order and to Quash Subpoena (Dkt. #12).

Iovate is a defendant in an action currently pending in the Central District of California, *Orgain, Inc. v. Northern Innovations Holding Corp., et al.*, Case No. 8:18-cv-01253-JLS-ADA (the “California Action”). On June 3, 2021, Iovate filed its Motion in this case for an order to show cause why a contempt citation should not issue against non-party Amazon for its failure to comply with Iovate’s non-party Subpoena to Testify at a Deposition in a Civil Action (the “Subpoena”) issued on March 15, 2021, and sought an order enforcing the document production

1 requests contained therein. Dkt. #6 at 1. On June 15, 2021, Amazon filed its Motion requesting  
2 the Court quash the Subpoena and enter a protective order precluding Amazon's deposition  
3 sought by Iovate. Dkt. #12 at 2.

4 Since Iovate and Amazon filed their motions in this case, the California Action has  
5 proceeded. On February 18, 2022, the court held a final pretrial conference. California Action,  
6 Dkt. #377. Since then, to this Court's knowledge, neither the Subpoena nor Amazon has been  
7 mentioned in any pre-trial briefing Iovate has submitted to the court in the California Action. In  
8 fact, the California Action was set to begin trial on February 21, 2023. Plaintiff Orgain, Inc. even  
9 filed its trial brief on February 14, 2023 (California Action, Dkt. #415). However, on February  
10 17, 2023, during an exhibit conference, the California Action's trial date was stricken due to a  
11 court conflict. California Action, Dkt. #416.

12 As discovery has come to a close and the parties seem ready to proceed to trial in the  
13 California Action, the Court finds and ORDERS that **within seven (7) days of this Order** each  
14 party may show cause: (1) why Iovate's Motion (Dkt. #6) (sealed) and Amazon's Motion (Dkt.  
15 #12) should not be stricken as moot; and (2) why this case should not be closed. Any response  
16 to this Order shall be **limited to five double-spaced pages**. If the Court does not receive a  
17 response from either party the Motions (Dkts. # 6, 12) will be stricken and the case will be closed.  
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22 DATED this day of 27<sup>th</sup> February, 2023.  
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27 RICARDO S. MARTINEZ  
28 UNITED STATES DISTRICT JUDGE